

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1795
SMALL OPERATOR ASSISTANCE

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AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; codified at 8 Ill. Reg. 16438; amended at 11 Ill. Reg. 8481, effective July 1, 1987; amended at 20 Ill. Reg. 2124, effective January 19, 1996.

Section 1795.1 Scope and Purpose

- a) This Part comprises the Small Operator Assistance Program (SOAP) and establishes the procedures for providing assistance to eligible operators by the program administrator.
- b) The purpose of the program is to provide for eligible operators a determination of probable hydrologic consequences including the engineering analysis and designs necessary for the determination; cross-sections, maps and plans; geologic drilling

and statement of results of test borings and samplings; archaeological and historical information collection and relevant plan preparation; pre-blast surveys and pre-blast survey reports; and site specific resource information collection and relevant plan preparation which are required components of the permit application under 62 Ill. Adm. Code 1772 through 1785.

(Source: Amended at 20 Ill. Reg. 2124, effective January 19, 1996)

Section 1795.2 Objective (Repealed)

(Source: Repealed at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.3 Authority

The Director shall provide financial and other assistance under Section 2.02 of the State Act to the extent funds are appropriated by Congress specifically for this Program and by the State legislature.

Section 1795.4 Definitions

- a) As used in this Part, program administrator means the Illinois Department of Natural Resources (Department) Director's designee; and
- b) Qualified laboratory means a designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic consequences or other studies and/or reports or plans under the Small Operator Assistance program which meet the standards of Section 1795.10.

(Source: Amended at 20 Ill. Reg. 2124, effective January 19, 1996)

Section 1795.6 Eligibility for Assistance

An applicant is eligible for assistance if he or she:

- a) Intends to apply for a permit pursuant to the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720] (State Act);
- b) Establishes that his or her probable total attributed annual production from all locations on which the operator is issued the surface coal mining and reclamation operations permit will not exceed 300,000 tons. Production from the following operations shall be attributed to the applicant:

- 1) The pro rata share, based upon percentage of ownership of applicant, of coal produced by operations in which the applicant owns more than a ten (10) percent interest;
 - 2) The pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than ten (10) percent of the applicant's operation;
 - 3) All coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management;
 - 4) All coal produced by operations owned by members of the applicant's family and the applicant's relatives, unless it is established that there is no direct or indirect business relationship between or among them;
- c) Is not restricted in any manner from receiving a permit under the permanent regulatory program; and
 - d) Does not organize or reorganize his or her company solely for the purposes of obtaining assistance under the SOAP.

(Source: Amended at 20 Ill. Reg. 2124, effective January 19, 1996)

Section 1795.7 Filing for Assistance

Each application for assistance shall include the following information:

- a) A statement of the operator's intent to file a permit application.
- b) The names and addresses of:
 - 1) The permit applicant; and
 - 2) The operator, if different from the applicant.
- c) A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under Section 1795.6. The schedule shall include for each location:
 - 1) The operator or company name under which coal is or will be mined;

- 2) The permit number and Mine Safety and Health Administration (MSHA) number;
 - 3) The actual coal production during the year preceding the year for which the applicant applies for assistance and production that may be attributed to the applicant under Section 1795.6; and
 - 4) The estimated coal production and any production which may be attributed to the applicant for each year of the proposed permit.
- d) A description of:
- 1) The proposed method of coal mining;
 - 2) The anticipated starting and termination dates of mining operations;
 - 3) The number of acres of land to be affected by the proposed mining operation; and
 - 4) A general statement on the probable depth and thickness of the coal resource including a statement of reserves in the permit area and the method by which they were calculated.
- e) A U.S. Geological Survey topographic map at a scale of 1:24,000 or larger or other topographic map of equivalent detail which clearly shows:
- 1) The land to be affected;
 - 2) The location of any existing or proposed test borings; and
 - 3) The location and extent of known workings of any underground mines.
- f) Copies of documents which show that:
- 1) The applicant has a legal right to enter and commence mining within the permit area; and
 - 2) A legal right of entry has been obtained for the program administrator and laboratory personnel to inspect the lands to be mined and adjacent areas to collect environmental data or to install necessary instruments.

(Source: Added at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.8 Application Approval and Notice

- a) If the program administrator finds the applicant eligible, he or she shall inform the applicant in writing within ninety (90) days of receipt of the application that the application is approved.
- b) If the program administrator finds the applicant ineligible, he or she shall inform the applicant in writing that the application is denied and shall state the reasons for denial.

(Source: Added at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.9 Program Services and Data Requirements

- a) To the extent possible with available funds, the program administrator shall select and pay a qualified laboratory to make the determination, studies, reports, plans and statement referenced in subsection (b) below for eligible operators who request assistance.
- b) The program administrator shall determine the data needed for each applicant or group of applicants. Data collected and the results provided to the program administrator shall be sufficient to satisfy the requirements for:
 - 1) The determination of probable hydrologic consequences, including the engineering analysis and designs necessary for the determination, of the surface mining and reclamation operations in the proposed permit and adjacent areas in accordance with 62 Ill. Adm. Code 1780.21(f) and 1784.14(e);
 - 2) The drilling and statement of the results of test borings or core samples for the proposed permit in accordance with 62 Ill. Adm. Code 1780.22(b) and 1784.22(b);
 - 3) Cross-sections, maps and plans required by 62 Ill. Adm. Code 1779.25 and 1783.25;
 - 4) Collection of archaeological and historical information and related plans required by 62 Ill. Adm. Code 1779.12(b), 1780.31, 1783.12(b) and 1784.17, and any other archaeological and historical information required by the Department;

- 5) Pre-blast surveys and reports pursuant to the provisions of 62 Ill. Adm. Code 1816.62;
- 6) Site specific resource information and protection and enhancement plans for fish and wildlife habitats and other environmental values required by the Department under 62 Ill. Adm. Code 1779.19, 1780.16, 1783.19 and 1784.21, and information and plans for any other environmental values required by the Department under the State Act.
- c) Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.
- d) Data collected under this program shall be made publicly available in accordance with 62 Ill. Adm. Code 1773.13(d). The program administrator shall develop procedures for interstate coordination and exchange of data.

(Source: Amended at 20 Ill. Reg. 2124, effective January 19, 1996)

Section 1795.10 Qualified Laboratories

- a) Basic qualifications. To be designated a qualified laboratory, a firm shall demonstrate that it:
 - 1) Is staffed with experienced, professional or technical personnel in fields applicable to the work to be performed;
 - 2) Has adequate space for material preparation and cleaning and sterilizing equipment and has stationary equipment, storage, and space to accommodate workloads during peak periods;
 - 3) Meets the requirements of MSHA set forth in 30 CFR 1 through 199 (1986) and the requirements of the Occupational Safety and Health Administration set forth in 29 CFR 1900 through 1999 (1986);
 - 4) Has analytical, monitoring and measuring equipment capable of meeting applicable standards set forth in 62 Ill. Adm. Code 1780.21(a) and 1784.14(a);
 - 5) Has the capability of collecting necessary field samples and making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic, geologic, or analytical methods in accordance with the requirements of 62 Ill. Adm. Code 1780.21, 1780.22, 1784.14 and

1784.22. Other appropriate methods or guidelines for data acquisition shall be approved by the program administrator if it is determined that these alternate methods will result in the collection of data as accurate as that collected by the previously mentioned methods, and

- 6) Has the capability of performing services for either the determination or statement referenced in Section 1795.9(b).
- b) Subcontractors. Subcontractors may be used to provide some of the required services provided their use is identified at the time a determination is made that a firm is qualified and they meet requirements specified in subsection (a).

(Source: Added at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.11 Assistance Funding

- a) Use of funds. Funds specifically authorized for this program shall be used to provide the services specified in Section 1795.9 and shall not be used to cover administrative expenses.
- b) Allocation of funds. The program administrator shall establish a formula for allocating funds to provide services commensurate with funding levels for eligible small operators if available funds are less than those required to provide the services pursuant to this Part.

(Source: Added at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.12 Applicant Liability

- a) The applicant shall reimburse the Department for the cost of the laboratory services performed pursuant to this Part if:
 - 1) The applicant submits false information, fails to submit a permit application within one (1) year from the date of receipt of the approved laboratory reports, or fails to mine after obtaining a permit;
 - 2) The program administrator finds that the applicant's actual and attributed production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit; or

- 3) The permit is sold, transferred, or assigned to another person and the original permittee's and transferee's total actual and attributed production exceeds 300,000 tons during the twelve (12) months immediately following the date on which the permit was originally issued. If the permit is transferred during the twelve (12) month period immediately following the permit issuance date, the determination of adherence to the twelve (12) month - 300,000 tons limit shall be performed by combining the actual and attributed production of both parties for the twelve (12) month period immediately following the date of original permit issuance. Under this subsection the applicant and its successor are jointly and severally obligated to reimburse the Department.
- b) The program administrator shall waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith.

(Source: Amended at 20 Ill. Reg. 2124, effective January 19, 1996)

Section 1795.13 Eligibility for Assistance (Repealed)

(Source: Repealed at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.14 Filing for Assistance (Repealed)

(Source: Repealed at 11 Ill. Reg. 8481, effective July 1, 1987)

Section 1795.15 Application Approval and Notice (Repealed)

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Section 1795.17 Qualified Laboratories (Repealed)

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Section 1795.18 Assistance Funding (Repealed)

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Section 1795.19 Applicant Liability (Repealed)

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